1949. **File. No.** O. Motor Spirit Tax/49

Legal Department

A BRANCH

Subject:—Opinions under the Bombay Sales of Motor Spirit Taxation Act 1946

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C O N T E N T S.

Legal Department File No. C. Motor Sprit Tax /49

Sr. R. I./ O. NO. No.	Subject.	Pages.
	Bombay Sales of Motor Spirit Taxation Act, 1948.	
1. R.I.No.18387/49. O.No.14935. 22.12.49.	Sec. 4 -- Bombay Sales of Motor Sprit Taxation Rules, 1948 -- Rule 14(3) -- whether Rule 14(3) gives facit exemption from payment of tax which is recoverable under the provisions of sec. 3 . Whether there is any substance in the arguments advanced by M/S Crawford Bayley & Co. on behalf of their clients M/S Caltex (India) Ltd. that importers would not be liable to pay tax k for the motor spirit consumedd by their own fleet of automobile units	1-4

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R.I.No.18327./49.

Submitted.

Attention is invited to para 3 of the R.D. note at p. 46 ante.

R.D. in the note at 'A' at p. 46 states, "These importers seem to argue that as direct importers they are exempted under rule 14(3) from payment of sales tax on motor spirit consumed by them. Rule 14(3) under which exemption is claimed by these importers deals with submission of return. Rule 14(3) gives exemption to importers from submitting return to the Collector of Bombay. It does not give credit exemption from payment of tax which is recoverable under the provisions of section 3 of the Bombay Sale of Motor Spirit Tax Act, 1946. The question for consideration of R.L.A. is whether the above view is correct.

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Office of the R.L.A.

The Bombay Sales of Motor Spirit Taxation Act, 1946, S. 4 and The Bombay Sales of Motor Spirit Taxation Rules, 1948. Rule 14(3).

The view expressed by R.D. at 'A' on p. 46 ante is not correct. The tax is assessed under section 4 of the Bombay Sales of Motor Spirit Taxation Act, 1946, on the basis of accounts submitted in prescribed forms under rule 14 read with section 10. If a trader is not required to submit accounts at all under the Act, it would mean that he is exempt from payment of tax.

The contentions raised by Crawford, Bayley &Co., Solicitors, on behalf of their clients, Messrs. Caltex (India) Ltd. in substance amount to this that Messrs. Caltex (India) Ltd. being importers would not be liable to pay tax for the motor spirit consumed by their own fleet of automobile units, firstly because no sale is involved by such consumption, and secondly because they are exempted from submitting accounts under rule 14(3). These contentions were considered by the R.L.A. in last opinion No. 7054 dated 25.6.49. For the reasons stated in that opinion (i.e. opinion No. 7054 Dt. 25.6.49.) it appears that although there is much substance in the contentions raised by the Solicit what is contemplated by rule 14(3) is exemption from pay ment of the tax by one importer who imports motor spiri direct for his own consumption. Messrs. Caltex (India) Ltd. admittedly hold a licence as retail traders. It would therefore follow that they import motor spirit fo retail sale and not for consumption. If so, at some stage between import and sale, the motor spirit import by them would be liable to the tax under section 3(1). Consumption of motor spirit by the Company for their own automobile units would be as good as sale to themselves because they will have to debit to their account such consumption. In view of this legal position the contentions raised by the Solicitors need not be admi admitted.

Sd/- P.M.Lad/ 22.12
Remembrancer of Legal Affairs.

U.R.to R.D. No. 14935 , dated 22nd December 1949.

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